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**UNITED STATES DISTRICT COURT**  
**DISTRICT OF ARIZONA**

WILLIAM BRADY CASHMAN; STEVE  
LEE COX; ROBERT F. MACKNIS; KARL  
DOUGLAS MEHRHOF; FRANK J.  
NAMIO; EMIL F. NOBILE; TERRENCE  
LAWTON SHEAHAN; and WAYNE D.  
WILCOXON,

Plaintiffs,

v.

ARIZONA PUBLIC SERVICE  
COMPANY,

Defendant.

Case No.:

**COMPLAINT**

Plaintiffs William Brady Cashman, Steve Lee Cox, Robert F. Macknis, Karl Douglas. Mehrhof, Frank J. Namio, Emil F. Nobile, Terrence Lawton Sheahan and Wayne D. Wilcoxon, and each of them, for their respective claims allege, as follows:

1           I.     Introduction

2           1.     This action arises under the Fair Labor Standards Act. Defendant has  
3 unlawfully classified each plaintiff as an “exempt employee” contrary to the Fair Labor  
4 Standards Act and regulations promulgated by the United States Department of Labor.  
5 Each plaintiff on numerous occasions has worked more than 40 hours in a work week  
6 during the last three years. Defendant has compensated plaintiffs for such work at their  
7 regular rate. Accordingly, defendant has violated the Fair Labor Standards Act which  
8 requires compensation for hours worked in excess of 40 hours in a work week to be paid  
9 at one and one-half times an employee’s regular rate. As defendant willfully violated the  
10 FLSA’s overtime provisions, plaintiffs are entitled to recover for unpaid overtime for  
11 each violation that occurred within the last three years. As defendant acted in bad faith,  
12 plaintiffs are entitled to recover an additional equal amount as liquidated damages.

13           II.    The Parties, Jurisdiction and Venue

14           2.     Plaintiffs, and each of them, are residents of Maricopa County, Arizona.

15           3.     Joinder of the plaintiffs’ respective claims is permitted by Rule 20 (a) (1) of  
16 the Federal Rules of Civil Procedure.

17           4.     Defendant Arizona Public Service Company (APS) is incorporated under  
18 the laws of Arizona.

19           5.     This Court has subject matter jurisdiction pursuant to Section 16 of the Fair  
20 Labor Standards Act. 29 U.S.C. § 216 (b). Likewise, this Court has subject matter  
21 jurisdiction pursuant to 28 U.S.C. § 1337.

22           6.     Venue is appropriate, under 28 U.S.C. § 1391, as the majority of the acts  
23 and omissions which give rise to this case occurred in Arizona, including Maricopa  
24 County, Arizona.

25           III.   FLSA Covered Employment

26           7.     Defendant APS is an “employer” within the meaning of Section 3 (d) of the  
27 Fair Labor Standards Act. 29 U.S.C. § 203 (e).

28           8.     Each plaintiff, during relevant times, is or was an “employee” of defendant  
within the meaning of Section 3 of the Fair Labor Standards Act. 29 U.S.C. § 203 (e).

1           9.     During relevant times, each plaintiff was employed by Defendant in a job  
2 described by Defendant as Project Inspector – Electrical.

3           10.    Each of the plaintiffs prior to becoming as Project Inspector – Electrical  
4 worked as a journeyman lineman.

5           11.    Each of the plaintiffs learned the trade by serving in and completing an  
6 apprenticeship training program.

7           12.    As a Project Inspector – Electrical, each of the plaintiffs serve as  
8 Defendant’s representative in the coordination, monitoring and inspection of projects  
9 related to electrical line and substation construction, trenching and conduit installation  
10 and site preparation activities completed on behalf of Defendant by third-party  
11 contractors.

12           13.    In performing the duties of Project Inspector – Electrical, each plaintiff  
13 utilized knowledge and skill acquired through his apprentice training and prior work as a  
14 journeyman lineman.

15           14.    Defendant has classified each plaintiff as being “exempt” under the Fair  
16 Labor Standards Act.

17           15.    Defendant’s classification of plaintiffs as “exempt” employees is contrary  
18 to and in violation of the Fair Labor Standards Act.

19           16.    Regulations promulgated by the United States Department of Labor,  
20 including 29 C.F.R. 541.202(b), provide that inspection work of the type performed by  
21 each plaintiff is not exempt from coverage under the Fair Labor Standards Act.

22           17.    29 C.F.R § 541.203 (g) expressly provides:

23                 Ordinary inspection work generally does not meet the duties  
24 requirements for the administrative exemption. Inspectors  
25 normally perform specialized work along standardized lines  
26 involving well-established techniques and procedures which  
27 may have been catalogued and described in manuals or other  
28 sources. Such inspectors rely on techniques and skills acquired  
by special training or experience. They have some leeway in the  
performance of their work but only within closely prescribed  
limits.

1 18. None of the plaintiffs, during relevant times, had authority to formulate,  
2 affect, interpret, or implement management policies or operating practices within the  
3 meaning of 29 C.F.R. 541.202(b).

4 19. None of the plaintiffs, during relevant times, carried out major assignments  
5 in conducting the operations of the business within the meaning of 29 C.F.R. 541.202(b).

6 20. None of the plaintiffs, during relevant times, performed work that affects  
7 business operations to a substantial degree within the meaning of 29 C.F.R. 541.202(b).

8 21. None of the plaintiffs, during relevant times, has had authority to commit  
9 the employer in matters that have significant financial impact within the meaning of 29  
10 C.F.R. 541.202(b).

11 22. None of the plaintiffs, during relevant times, has had authority to waive or  
12 deviate from established policies and procedures without prior approval within the  
13 meaning of 29 C.F.R. 541.202(b).

14 23. None of the plaintiffs, during relevant times, has had authority to negotiate  
15 and bind the company on significant matters within the meaning of 29 C.F.R.  
16 541.202(b).

17 24. None of the plaintiffs, during relevant times, investigated and resolved  
18 matters of significance on behalf of management within the meaning of 29 C.F.R.  
19 541.202(b).

20 25. None of the plaintiffs, during relevant times, represented the company in  
21 handling complaints, arbitrating disputes or resolving grievances within the meaning of  
22 29 C.F.R. 541.202(b).

23 III. Defendant Requested, Suffered and Permitted the Working of Overtime  
24 Hours.

25 26. Each plaintiff on numerous and repeated occasions has worked more than  
26 40 hours in a work week during each of the last three years.

27 27. Each time a plaintiff worked more than 40 hours in a work week during  
28 each of the last three years, defendant requested, suffered and permitted such work.

